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March 11, 2018

***Via ECF***

The Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY, 10007-1312

**Re: *United States v. Bergstein*, 16 cr. 746 (PKC)**

Dear Judge Castel:

Defendant David Bergstein writes to request that he have until March 23, 2018 to respond to the Government's letter motion for a preliminary order of forfeiture (Doc. 307).

The defendant notes that the Government's proposed preliminary order of forfeiture appears flawed on its face. The proposed preliminary order states that Mr. Bergstein "personally obtained" over \$27 million dollars. But, even viewed in the light most favorable to the Government, the evidence does not support such a finding. Indeed, the Government stated in its summation that it did not "dispute that some of the money was used for medical billing." (Tr. 3066). In addition, the evidence showed that funds at issue were received by, among others, the P2 fund, other Weston-related entities, and entities entitled to funds as part of the unwind agreement. A court may not order forfeiture of funds that are transmitted directly to innocent third parties. *See United States v. Contorinis*, 692 F.3d 136, 147 (2d Cir. 2012).

Respectfully submitted,

SATTERLEE STEPHENS LLP

/s/ Andrew L. Fish  
Andrew L. Fish

BIENERT, MILLER & KATZMAN, PLC

/s/ Thomas H. Bienert, Jr.  
Thomas H. Bienert, Jr.

cc: All counsel (via ecf)